IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1587 OF 2006

Akhtarunnisa Mohd.Taufique .. Petitioner

Vs.

Anjuman I.Islam Urdu Primary School and Ors. .. Respondents

Mr.M.V.Limaye for the petitioner

Mrs.A.K.Savla for the respondent no.5

Mr.M.D.Naik, A.G.P. for the respondent no.6

Mr.A.J.Uniyal for the respondent no.4

Mr.R.M.Vanoo for the respondent no.1 and 2

CORAM : J.N.PATEL &
S.C.DHARMADHIKARI, J

DATED : 5TH FEBRUARY, 2007

P.C.:

1. Heard.

2. The petitioner has approached this court challenging the appointment of respondent no.4, Kazi Parvin Abdul Sattar as Head Master in respondent no.1 school.

3. The main ground of challenge is that the petitioner is one of the seniormost teacher in the respondent no.1 Urdu Primary School and, therefore, in accordance with the provisions of Brihan Mumbai Employees of Private Primary Schools (Condition of Service) Rules 1998, Rule 3 which provide for Qualifications and appointment of Head Teacher clearly lays down that a seniormost trained teacher who has put in not less than 5 years service should be considered for appointment.

4. It is the contention of the petitioner that respondent no.4 is junior to the petitioner and that the respondent no.2 has appointed respondent no.4 as Head Master of Respondent no.1 School by ignoring the claim of the petitioner and by inviting applications and conducting interview which was nothing but a farce.

5. On the other hand, it is the contention of the respondents that the respondent no.2 has selected the Head Master on merits among the senior teachers who were within the zone of consideration

and respondent no.4 has been selected and appointed as his performance was the best, in addition to the fact that respondent no.2 is a minority institution who is running the respondent no.1 School and for that purpose has placed reliance on the decision of the Supreme Court rendered in the case of Secretary, Malankara Syrian Catholic College v. T.Jose and Ors. reported in 2007 AIR SCW 132.

6. In our view, the decision of the Secretary, Malankara Syrian Catholic College v. T.Jose and Ors. clearly makes out a case in favour of the respondent no.2 and though the Rules of 1998 on which the petitioner has placed reliance provide for appointment of seniormost trained teacher, the same will have to be read alongwith Article 30(1), for the reason that respondent no.2 is a minority institution and therefore, no case is made out by the petitioner to call for any interference by this court. Hence, the petition is dismissed.

(SHRI J.N. PATEL, J)

(SHRI S.C.DHARMADHIKARI, J)